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Attorneys for Defendants  
FOSTER POULTRY FARMS;  
FOSTER FARMS, LLC; JULIAN MORENO;  
and ANNA REYNOSO

*[Other counsel listed on next page]*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL NELSON,

Plaintiff,

v.

FOSTER POULTRY FARMS, FOSTER FARMS,  
LLC, JULIAN MORENO, ANNA REYNOSO,  
and DOES 1 to 100, inclusive,

Defendants.

Case No. 1:21-CV-00222-JLT-BAM

**JOINT STIPULATION AND ~~PROPOSED~~  
ORDER TO CONTINUE SCHEDULING  
CONFERENCE**

[Removed from Merced County Superior  
Court, Case No. 20CV-03785]

Action Removed: February 19, 2021  
Complaint Filed: December 29, 2020  
Trial Date: TBD

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Plaintiff Michael Nelson (“Plaintiff”) and Defendants Foster Poultry Farms, Foster Farms, LLC, Julian Moreno, and Anna Reynoso (“Defendants”) (collectively, the “Parties”), by and through their respective counsel of record, stipulate and agree as follows:

**JOINT STIPULATION**

WHEREAS, on December 29, 2020, Plaintiff filed a Complaint against Defendants in Superior Court of the State of California for the County of Merced titled *Michael Nelson v. Foster Poultry Farms, et al.*, Case No. 20CV-03785, alleging eleven causes of action;

WHEREAS, on February 19, 2021, Defendant filed their Answer to Plaintiff’s Complaint in Superior Court of the State of California for the County of Merced;

WHEREAS, on February 19, 2021, Defendants then filed their Notice of Removal of Civil Action to the United States District Court for the Eastern District of California (Dkt. Nos. 1-2);

WHEREAS, on February 23, 2021, Defendants filed their Notice to the Clerk of the Superior Court and to Plaintiff of Removal of Civil Action to the United States District Court for the Eastern District of California;

WHEREAS, on March 5, 2021, Defendant filed their Notice of Compliance with 28 U.S.C. § 1446 (Dkt. No. 7);

WHEREAS, on March 22, 2021, Plaintiff filed a Notice of Motion and Motion for an Order to Remand the Case to State Court (Dkt. No. 8), which was fully brief by the Parties, including Defendants’ Opposition (Dkt. No. 11) and Plaintiff’s Reply (Dkt. No. 12);

WHEREAS, on March 1, 2022, the Court continued the Initial Scheduling Conference to June 15, 2022 at 9:00 AM in Courtroom 8 before Magistrate Judge Barbara A. McAuliffe (Dkt. No. 20);

WHEREAS, on March 31, 2022, United States Magistrate Judge McAuliffe issued the Findings and Recommendations Regarding Plaintiff’s Motion to Remand and recommended that Plaintiff’s Motion to Remand be denied (Dkt. No. 21);

WHEREAS, on April 18, 2022, United States District Judge Jennifer L. Thurston adopted Magistrate Judge McAuliffe’s Findings and Recommendations in full and denied Plaintiff’s Motion to Remand (Dkt. No. 22);

1 WHEREAS, on June 8, 2022, the Court entered an order granting the Parties' joint stipulation to  
2 continue the scheduling conference from June 15, 2022, to December 15, 2022, at 9:00 a.m. before  
3 Magistrate Judge McAuliffe (Dkt. No. 24);

4 WHEREAS, on December 1, 2022, the Court continued the Scheduling Conference from  
5 December 15, 2022, to December 21, 2022, at 9:00 a.m. before Magistrate Judge McAuliffe (Dkt No.  
6 25);

7 WHEREAS, the Parties have stipulated to dismiss with prejudice Plaintiff's seventh cause of  
8 action for breach of oral contract not to terminate employment without good cause and eighth cause of  
9 action for breach of implied in fact contract not to terminate employment without good cause;

10 WHEREAS, Plaintiff intends to file the Parties' stipulation to dismiss Plaintiff's seventh and  
11 eighth causes of action with prejudice, and subsequently intends to move to remand the case back to  
12 state court by way of a Renewed Motion to Remand or Motion for Reconsideration;

13 WHEREAS, Defendants contend that this Court's jurisdiction is proper based on federal  
14 question jurisdiction and will oppose any Motion to Remand or Motion for Reconsideration;

15 WHEREAS, given that Plaintiff still disputes this Court's jurisdiction and intends to seek remand  
16 again, and in an effort to prevent undue waste of the Parties' and Court's resources and time, the Parties  
17 want to avoid burdening the Court with holding a scheduling conference until Plaintiff's motion practice  
18 has been exhausted; and

19 WHEREAS, the Parties hereby agree and request that the Court further continue the Scheduling  
20 Conference six months, or as soon thereafter as the Court deems appropriate to give the Parties and the  
21 Court enough time to address the jurisdictional issue as it pertains to Plaintiff's attempt to remand the  
22 case back to state court.

23 The Parties hereby STIPULATE as follows:

24 1. That the Initial Scheduling Conference currently set for December 21, 2022 be continued  
25 six months or as soon thereafter as the Court deems appropriate.

26 **IT IS SO STIPULATED.**  
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1 DATED: December 8, 2022

SEYFARTH SHAW LLP

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3 By: \_\_\_\_\_

4 Jon D. Meer

Michael Afar

Peter J. Choi

5 Attorneys for Defendants

6 FOSTER POULTRY FARMS, FOSTER

FARMS, LLC, JULIAN MORENO, and ANNA

7 REYNOSO

8 DATED: December 8, 2022

SHEGERIAN & ASSOCIATES, INC.

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10  
11 By: /s/ Daniel B. Henderson

12 Carney Shegerian

13 Anthony Nguyen

Daniel B. Henderson

14 Attorneys for Plaintiff MICHAEL NELSON

**ORDER**

The parties having so stipulated and good cause appearing, the Court hereby ORDERS:

The Initial Scheduling Conference, currently set for December 21, 2022, is continued to **June 21, 2023 at 8:30 a.m. in Courtroom 8 (BAM) before Magistrate Judge Barbara A. McAuliffe**. The parties shall file a Joint Scheduling Report one week prior to the conference.

IT IS SO ORDERED.

Dated: **December 9, 2022**

*/s/ Barbara A. McAuliffe*  
UNITED STATES MAGISTRATE JUDGE